IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1163 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

   SHANKARRAO NATHUBA SINGHE
Versus
   SHOBHANABEN BALVANTRAY TALVADE

   Appearance:
       MR DD VYAS for Petitioner
       MR SK BUKHARI for Respondent No. 1, 2, 3, 4, 5

   CORAM : MR.JUSTICE Y.B.BHATT
   Date of decision: 23/12/1999

ORAL JUDGEMENT

   1. This is a revision under Section 29(2) of the
   Bombay Rent Act, 1947 at the instance of the original
   defendant tenant.

2. The landlord-plaintiff had filed a Suit against the defendant-tenant for a decree of eviction in respect of the rented premises on two grounds, namely, reasonable bonafide requirement of the landlord and that the tenant had acquired suitable alternate accommodation.

3. The trial court after appreciating the evidence on record and on hearing the parties passed a decree only on the ground that the plaintiff had proved his reasonable and bonafide requirement in respect of the leased premises, and dismissed the Suit on the ground that the tenant had acquired suitable alternate accommodation.

4. The defendant-tenant therefore preferred an appeal under Section 29(1) of the said Act, wherein the decree of the trial court was confirmed and the appeal dismissed.

5. The petitioner in the present revision therefore challenges the judgment and decree passed against him by the trial court as confirmed by the lower appellate court.

6. By now it is a well settled proposition of law that the scope and ambit of a revision under Section 29(2) of the Bombay Rent Act is not significantly different and/or larger than the scope of revision under Section 115 of the C.P.C., that the revisional court cannot interfere on concurrent findings of fact, and cannot upset such concurrent findings of fact merely because another view may just be possible.

7. There cannot be any controversy that the reasonable and bonafide requirement of landlord, when established on record by appropriate evidence is a finding of fact recorded by the trial court and confirmed by the lower appellate court. This Court in revision therefore would not be justified in interfering with such findings merely because on an independent appreciation of evidence, another view may perhaps be possible.

8. I would however clarify that even on such independent appreciation of the evidence on record, I am satisfied that the view expressed by the trial court and confirmed by the lower appellate court is eminently reasonable, justified and sustainable. I am therefore not inclined to interfere in the present revision and the same is therefore liable to be dismissed.

9. Only a few salient features are required to be

noted. The Suit was filed by the original landlord, but expired during the pendency of the Suit. His heirs were therefore brought on record during the pendency of the Suit.   In this context it requires to be noted that the requirements of the landlord as set out in the plaint and particularly in paragraph 2 thereof do not pertain merely to the requirement of the landlord as an individual but contain specific recitals that the requirement is in respect of the landlord and other members of his family. The plaint specifically refers to the individual requirements of the plaintiff himself as also the then plaintiff's wife, two sons and unmarried daughter. Even after the plaintiff expired, one of the heirs, that is to say, plaintiff No.1/2, being the son of the original landlord has examined himself and has explained and narrated in detail the individual requirement of his mother, his other brother, his unmarried sister, as also his own requirement and the requirement of his own family. Thus on the facts of the case, out of five heirs of the original landlord, four of the heirs have established by uncontroverted evidence on record their individual requirements in respect of the rented premises. Only one of the plaintiffs, namely, plaintiff no. 1/3 is not interested in shifting to the rented premises, and this is an admitted position.

10. The trial court has examined the evidentiary material on record including the oral evidence in considerable detail, and in its judgment and particularly at paragraph 11 thereof has rightly came to the conclusion that the plaintiffs (heirs of the original plaintiff) have completely justified their reasonable and bonafide requirement in respect of the leased premises.

 The trial court has also discussed the question
of relative hardship of the tenant vis-a-vis the hardship to the landlord (if the decree for eviction were refused) within the meaning of subsection (2) of Section 13 of the said Act.   Even on this aspect, the unequivocal finding of the trial court which requires to be confirmed is that the landlord would suffer greater hardship if the decree were refused, than the hardship which would be caused to the tenant.

11. The lower appellate court while dealing with the appeal filed by the defendant-tenant has dealt with all these aspects in considerable detail, and has reappreciated the evidence on record.   I may not reiterate the entire treatment meted out to the evidence by the lower appellate court, but merely state that the same has bene meticulously examined and dealt with in the

judgment of the lower appellate court at paragraphs 11,
47, 59, 60 and 65 (including the question of relative
hardship).

12. I therefore find that there is no justification
for interference by the exercise of revisional powers of
this Court under Section 29(2) of the Bombay Rent Act,
and that therefore the present revision requires to be
dismissed. Accordingly this revision is dismissed. Rule
is discharged with no orders as to costs.

        (Y.B. Bhatt, J)

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